

Appl. No. 10/696,794
Examiner: Hewitt, James M, Art Unit 3679
In response to the Office Action dated October 5, 2005

Date: April 5, 2006
Attorney Docket No. 10111395

REMARKS

Responsive to the Office Action mailed on October 5, 2005 in the above-referenced application, Applicant respectfully requests amendment of the above-identified application in the manner identified above and that the patent be granted in view of the arguments presented. No new matter has been added by this amendment.

Present Status of Application

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Kanzler (US 4,941,221). Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Grudzinskas (US 4,619,481). Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilhoit (US 5,771,514). Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being obvious over Collymore (US 6,298,511) in view of Wilhoit (US 5,771,514). Claims 2-5 are withdrawn from consideration.

In this paper, claim 1 is amended as described in further detail below. New claims 7-20 are added. Support for the amendment and new claims can be found at least on page 8, line 25 to page 11, line 9 and Figs. 4A-4N of the application. Thus, on entry of this amendment, claims 1-20 are pending.

Reconsideration of this application is respectfully requested in light of the amendments and the remarks contained below.

Rejections Over Kanzler

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Kanzler.

To anticipate a claim, a reference must teach every element of the claim. In this regard, the Federal Circuit has held:

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the Advisory Action dated January 24, 2006, the Examiner withdrew the rejections over Kanzler as overcome by arguments presented in the response filed on January 5, 2006. Because the limitations argued in said response remain in claim 1 as amended (namely, an air pump assembly built into the mattress pad), it is Applicant's belief that the rejections over Kanzler are overcome for the same reasons. In any case, Applicant submits that Kanzler fails to teach or suggest a mattress pad having an upper and lower portion, a back support adjacent to the upper portion, wherein inflation of the back support raises the upper portion and varies an angle between the upper and lower portions of the mattress pad, as recited in claim 1. In addition, Kanzler fails to teach an air pump assembly built into the mattress pad or the back support.

For at least the reasons described above, it is Applicant's belief that Kanzler fails to teach or suggest all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue. Insofar as claims 6-13 depend from claim 1 either directly or indirectly, and therefore incorporate all of the limitations of claim 1, it is Applicant's belief that these claims are also in condition for allowance.

Rejections Over Grudzinskas

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Grudzinskas. To the extent that the grounds of the rejections may be applied to the claims now pending in this application, they are respectfully traversed.

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As amended, claim 1 recites an air mattress comprising:

- a mattress pad, having an upper portion and a lower portion;
- a back support, adjacent to the upper portion of the mattress pad; and
- an air pump assembly, built into the mattress pad or the back support, inflating the back support to raise the upper portion and vary an angle between the upper and lower portions of the mattress pad.

Grudzinskas teaches an inflatable seat cushion assembly 12 including a seat cushion having a plurality of inflatable compartments 14-18 and an air compressor 22 for inflating the inflatable compartments. As disclosed in col. 1, lines 16-18 and col. 5, lines 29-31 of Grudzinskas, "each inflatable cushion is selectively inflatable so as to increase or decrease the *firmness* of various parts of the chair cushion", and "any one of the seat cushion compartments can be selectively inflated or deflated to a desired *firmness*." [Emphasis added] That is, only firmness of the inflatable cushions is adjusted in Grudzinskas

However, Grudzinskas fails to teach or suggest a mattress pad having an upper and lower portion, a back support adjacent to the upper portion, wherein inflation of the back support raises the upper portion and varies an angle between the upper and lower portions of the mattress pad, as recited in claim 1. In addition, Grudzinskas fails to teach an air pump assembly built into the mattress pad or the back support.

For at least the reasons described above, it is Applicant's belief that Grudzinskas fails to teach or suggest all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue. Insofar as claims 6-13 depend from claim 1 either directly or indirectly, and therefore incorporate all of the limitations of claim 1, it is Applicant's belief that these claims are also in condition for allowance.

Rejections Over Wilhoit

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilhoit. To the extent that the grounds of the rejections may be applied to the claims now pending in this application, they are respectfully traversed.

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Wilhoit teaches a pillow 10 comprising inflatable chambers 16, 18 and 20 and control system 12 for inflating the inflatable chambers. These three chambers 16, 18 and 20 are separate, adjacent, parallel elongate tubes of essentially equal length, and are laterally disposed to extend the entire width of the pillow 10, and essentially define the generally rectangular form of the adjustable contour pillow 10. See col. 4, lines 46-51 and FIG. 2 of Wilhoit.

However, Wilhoit fails to teach or suggest a mattress pad having an upper and lower portion, a back support adjacent to the upper portion, wherein inflation of the back support raises the upper portion and varies an angle between the upper and lower portions of the mattress pad, as recited in claim 1. In addition, Wilhoit fails to teach an air pump assembly built into the mattress pad or the back support.

For at least the reasons described above, it is Applicant's belief that Wilhoit fails to teach or suggest all the limitations of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn and the claim passed to issue. Insofar as claims 6-13 depend from claim 1 either directly or indirectly, and therefore incorporate all of the limitations of claim 1, it is Applicant's belief that these claims are also in condition for allowance.

Rejections Over Collymore in View of Wilhoit

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being obvious over Collymore in view of Wilhoit. To the extent that the grounds of the rejections may be applied to the claims now pending in this application, they are respectfully traversed.

MPEP 2142 reads in part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the

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claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In connection with the third criteria, MPEP 2143.03 goes on the state:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

As noted above, Wilhoit fails to teach or suggest a mattress pad having an upper and lower portion, a back support adjacent to the upper portion, wherein inflation of the back support raises the upper portion and varies an angle between the upper and lower portions of the mattress pad, or an air pump assembly built into the mattress pad or the back support.

Collymore teaches an articulated air mattress 10 having a base portion 12 and a plurality of wedge-shaped lifting members 22 hinged to the base member. An air compressor 38 is used to inflate the base portion 12 and lifting members 22. However, Collymore also fails to teach or suggest a mattress pad having an upper and lower portion, a back support adjacent to the upper portion, wherein inflation of the back support raises the upper portion and varies an angle between the upper and lower portions of the mattress pad, as recited in claim 1. In addition, Collymore fails to teach an air pump assembly built into the mattress pad or the back support.

It is therefore Applicant's belief that even when taken in combination, the prior art references relied upon by the Examiner do not teach or suggest all the limitations of claim 1. For at least this reason, a *prima facie* case of obviousness cannot be established in connection with this claim. Furthermore, as it is Applicant's belief that a *prima facie* case of obviousness is not established for claim 1, the Examiner's arguments in regard to the dependent claim is considered moot and is not addressed here. Allowance of claims 1 and 6 is respectfully requested.

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New Claims 7-13

New claims 7-13 are believed to be allowable at least by virtue of their dependency from claim 1.

New Claims 14-20

New claim 14 recites an air mattress, comprising:

- an inflatable mattress pad comprising an upper portion and a lower portion;
- a separately inflatable back support disposed adjacent to the upper portion of the inflatable mattress pad; and
- an air pump assembly built into the inflatable mattress pad, the air pump assembly separately connected to the inflatable mattress pad and inflatable back support for inflation thereof, wherein the upper portion of the inflatable mattress pad is raised such that the angle between the upper and lower portions of the inflatable mattress pad is varied when the inflatable back support is inflated by the air pump assembly.

Applicant submits that whether taken alone or in combination, the cited references fail to teach or suggest an inflatable mattress pad comprising an upper portion and a lower portion and a separately inflatable back support disposed adjacent to the upper portion of the inflatable mattress pad, wherein the upper portion of the inflatable mattress pad is raised such that the angle between the upper and lower portions of the inflatable mattress pad is varied when the inflatable back support is inflated by the air pump assembly, as recited in claim 14.

Applicant further submits that whether taken alone or in combination, the cited references fail to teach or suggest an air pump assembly built into the inflatable mattress pad, the air pump assembly separately connected to the inflatable mattress pad and inflatable back support for inflation thereof, as recited in claim 14.

For at least these reasons, Applicant submits that claims 14-20 are allowable over the cited references. In addition, Applicant submits that the cited references fail to teach or suggest the

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claim feature recited in claim 14, wherein the air pump assembly is connected to the inflatable back support through the interior of the inflatable mattress pad, as recited in claim 20.

Withdrawn Claims 2-5

Withdrawn claims 2-5 depend from claim 1. On the allowance of claim 1, Applicant respectfully requests consideration of the additional species claims 2-5 as provided by 37 C.F.R. 1.141.

Conclusion

The Applicant believes that the application is now in condition for allowance and respectfully requests so.

Respectfully submitted,



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